

Senate File 2354 - Reprinted

SENATE FILE 2354
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 3210)

(As Amended and Passed by the Senate March 1, 2010)

A BILL FOR

1 An Act relating to campaign finance, including political
2 campaign activities and independent expenditures by
3 corporations, making penalties applicable, and including
4 effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 68A.402A, subsection 1, paragraph d,
2 Code 2009, is amended to read as follows:

3 d. The name and mailing address of each person who has
4 made one or more in-kind contributions to the committee when
5 the aggregate market value of the in-kind contributions in
6 a calendar year exceeds the applicable amount specified in
7 paragraph "b". In-kind contributions shall be designated
8 on a separate schedule from schedules showing contributions
9 of money and shall identify the nature of the contribution
10 and provide its estimated fair market value. A committee
11 receiving an in-kind contribution shall report the estimated
12 fair market value of the in-kind contribution at the time it
13 is provided to the committee. A person providing an in-kind
14 contribution to a committee shall notify the committee of the
15 estimated fair market value of the in-kind contribution at the
16 time the in-kind contribution is provided to the committee.
17 For purposes of this section, the estimated fair market value
18 of the in-kind contribution shall be reported regardless of
19 whether the person has been billed for the cost of the in-kind
20 contribution.

21 Sec. 2. Section 68A.402B, Code 2009, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 3. If a person who files an independent
24 expenditure statement and a disclosure report, pursuant to
25 section 68A.404, determines that the person will no longer make
26 an independent expenditure, the person shall notify the board
27 within thirty days following such determination by filing a
28 termination report on forms prescribed by the board.

29 Sec. 3. Section 68A.404, Code Supplement 2009, is amended
30 to read as follows:

31 **68A.404 Independent expenditures.**

32 1. As used in this section, "*independent expenditure*"
33 means one or more expenditures in excess of ~~one hundred~~ seven
34 hundred fifty dollars in the aggregate for a communication
35 that expressly advocates the nomination, election, or defeat

1 of a clearly identified candidate or the passage or defeat
 2 of a ballot issue that is made without the prior approval or
 3 coordination with a candidate, candidate's committee, or a
 4 ballot issue committee.

5 2. a. An entity, other than an individual or individuals,
 6 shall not make an independent expenditure or disburse
 7 funds from its treasury to pay for, in whole or in part, an
 8 independent expenditure made by another person without the
 9 authorization of a majority of the entity's board of directors,
 10 executive council, or similar organizational leadership body
 11 of the use of treasury funds for an independent expenditure
 12 involving a candidate or ballot issue committee. Such
 13 authorization must occur in the same calendar year in which the
 14 independent expenditure is incurred.

15 b. Such authorization shall expressly provide whether
 16 the board of directors, executive council, or similar
 17 organizational leadership body authorizes one or more
 18 independent expenditures that expressly advocate the nomination
 19 or election of a candidate or passage of a ballot issue or
 20 authorizes one or more independent expenditures that expressly
 21 advocate the defeat of a candidate or ballot issue.

22 c. A foreign national shall not make an independent
 23 expenditure, directly or indirectly, that advocates the
 24 nomination, election, or defeat of any candidate or the
 25 passage or defeat of any ballot issue. As used in this
 26 section, "foreign national" means a person who is not a citizen
 27 of the United States and who is not lawfully admitted for
 28 permanent residence. "Foreign national" includes a foreign
 29 principal, such as a government of a foreign country or a
 30 foreign political party, partnership, association, corporation,
 31 organization, or other combination of persons that has its
 32 primary place of business in or is organized under the laws of
 33 a foreign country. "Foreign national" does not include a person
 34 who is a citizen of the United States or who is a national of
 35 the United States.

1 ~~2.~~ 3. A person, other than a committee registered under
 2 this chapter, that makes one or more independent expenditures
 3 shall file an independent expenditure statement. All
 4 statements and reports required by this section shall be filed
 5 in an electronic format as prescribed by rule.

6 ~~a. The requirement to file an independent expenditure~~
 7 ~~statement under this section does not by itself mean~~
 8 ~~that~~ Subject to paragraph "b", the person filing the independent
 9 expenditure statement is required to register and shall file
 10 reports under sections 68A.201 and 68A.402 and 68A.402A.
 11 An initial report shall be filed at the same time as the
 12 independent expenditure statement. Subsequent reports shall be
 13 filed according to the same schedule as the office or election
 14 to which the independent expenditure was directed.

15 (1) A supplemental report shall be filed on the same dates
 16 as in section 68A.402, subsection 2, paragraph "b", if the
 17 person making the independent expenditure either raises or
 18 expends more than one thousand dollars.

19 (2) A report filed as a result of this paragraph "a" shall
 20 not require the identification of individual members who
 21 pay dues to a labor union, organization, or association,
 22 or individual stockholders of a publicly traded business
 23 corporation. A report filed as a result of this paragraph
 24 "a" shall not require the disclosure of any donor or other
 25 source of funding to the person making the independent
 26 expenditure except when the donation or source of funding, or a
 27 portion of the donation or source of funding, was provided for
 28 the purpose of furthering the independent expenditure.

29 ~~b.~~ This section does not apply to a candidate, candidate's
 30 committee, state statutory political committee, county
 31 statutory political committee, or a political committee.
 32 This section does not apply to a federal committee or an
 33 out-of-state committee that makes an independent expenditure.

34 ~~3.~~ 4. ~~a.~~ An independent expenditure statement shall be
 35 filed within forty-eight hours of the making of an independent

1 expenditure in excess of one hundred dollars in the aggregate,
2 or within forty-eight hours of disseminating the communication
3 to its intended audience, whichever is earlier. For purposes
4 of this section, an independent expenditure is made when the
5 independent expenditure communication is purchased or ordered
6 regardless of whether or not the person making the independent
7 expenditure has been billed for the cost of the independent
8 expenditure.

9 *b.* An independent expenditure statement shall be filed with
10 the board and the board shall immediately make the independent
11 expenditure statement available for public viewing.

12 *c.* For purposes of this section, an independent expenditure
13 is made at the time that the cost is incurred.

14 ~~4.~~ 5. The independent expenditure statement shall contain
15 all of the following information:

16 *a.* Identification of the individuals or persons filing the
17 statement. In the case of a corporation, the statement shall
18 disclose the names and addresses of all individual shareholders
19 and the names and addresses of the shareholders in any
20 corporation which is itself a shareholder in the corporation
21 making the independent expenditure.

22 *b.* Description of the position advocated by the individuals
23 or persons with regard to the clearly identified candidate or
24 ballot issue.

25 *c.* Identification of the candidate or ballot issue benefited
26 by the independent expenditure.

27 *d.* The dates on which the expenditure or expenditures took
28 place or will take place.

29 *e.* Description of the nature of the action taken that
30 resulted in the expenditure or expenditures.

31 *f.* The fair market value of the expenditure or expenditures.

32 *g.* A certification that the board of directors, executive
33 council, or similar organizational leadership body expressly
34 authorized the independent expenditure or use of treasury
35 funds for the independent expenditure by resolution or

1 other affirmative action within the calendar year when the
2 independent expenditure was incurred.

3 ~~5.~~ 6. Any person making an independent expenditure shall
4 comply with the attribution requirements of section 68A.405.

5 7. A person making an independent expenditure shall not
6 engage or retain an advertising firm or consultant that has
7 also been engaged or retained by the candidate, candidate's
8 committee, or ballot issue committee that is benefited by the
9 independent expenditure.

10 ~~6.~~ 8. a. The board shall develop, prescribe, furnish, and
11 distribute forms for the independent expenditure statements
12 required by this section.

13 b. The board shall adopt rules pursuant to chapter 17A for
14 the implementation of this section.

15 Sec. 4. Section 68A.405, Code Supplement 2009, is amended
16 to read as follows:

17 **68A.405 Attribution statement on published material.**

18 1. a. For purposes of this subsection:

19 (1) "*Individual*" includes a candidate for public office
20 who has not filed a statement of organization under section
21 68A.201.

22 (2) "*Organization*" includes an organization established to
23 advocate the passage or defeat of a ballot issue but that has
24 not filed a statement of organization under section 68A.201.

25 (3) "*Published material*" means any newspaper, magazine,
26 shopper, outdoor advertising facility, poster, direct mailing,
27 brochure, internet website, campaign sign, or any other form
28 of printed general public political advertising. "Published
29 material" includes television, video, or motion picture
30 advertising.

31 b. Except as set out in subsection 2, published material
32 designed to expressly advocate the nomination, election,
33 or defeat of a candidate for public office or the passage
34 or defeat of a ballot issue shall include on the published
35 material an attribution statement disclosing who is responsible

1 for the published material.

2 *c.* If the person paying for the published material is an
3 individual, the words "paid for by" and the name and address of
4 the person shall appear on the material.

5 *d.* If more than one individual is responsible, the words
6 "paid for by", the names of the individuals, and either the
7 addresses of the individuals or a statement that the addresses
8 of the individuals are on file with the Iowa ethics and
9 campaign disclosure board shall appear on the material.

10 *e.* If the person responsible is an organization, the words
11 "paid for by", the name and address of the organization, and
12 the name of one officer of the organization shall appear on the
13 material.

14 *f.* If the person responsible is a corporation, the words
15 "paid for by", the name and address of the corporation, and the
16 name and title of the corporation's chief executive officer
17 shall appear on the material.

18 ~~*f.*~~ *g.* If the person responsible is a committee that has
19 filed a statement of organization pursuant to section 68A.201,
20 the words "paid for by" and the name of the committee shall
21 appear on the material.

22 *h.* If the published material is the result of an independent
23 expenditure subject to section 68A.404, the published material
24 shall include a statement that the published material was not
25 authorized by any candidate, candidate's committee, or ballot
26 issue committee.

27 2. The requirement to include an attribution statement does
28 not apply to any of the following:

29 *a.* The editorials or news articles of a newspaper or
30 magazine that are not paid political advertisements.

31 *b.* Small items upon which the inclusion of the statement is
32 impracticable including, but not limited to, campaign signs,
33 bumper stickers, pins, buttons, pens, political business cards,
34 and matchbooks.

35 *c.* T-shirts, caps, and other articles of clothing.

1 *d.* Any published material that is subject to federal
2 regulations regarding an attribution requirement.

3 *e.* Any material published by an individual, acting
4 independently, who spends one hundred dollars or less of the
5 individual's own money to advocate the passage or defeat of a
6 ballot issue.

7 3. For television, video, or motion picture advertising,
8 the attribution statement shall be displayed on the screen in a
9 clearly readable manner for at least four seconds.

10 ~~3.~~ 4. The board shall adopt rules relating to the placing
11 of an attribution statement on published materials.

12 Sec. 5. Section 68A.503, Code Supplement 2009, is amended
13 by striking the section and inserting in lieu thereof the
14 following:

15 **68A.503 Financial institution, insurance company, and**
16 **corporation contributions prohibited.**

17 1. Except as provided in subsections 3, 4, 5, and 6, an
18 insurance company, savings and loan association, bank, credit
19 union, or corporation shall not make a monetary or in-kind
20 contribution to a candidate or committee except for a ballot
21 issue committee.

22 2. Except as provided in subsection 3, a candidate or
23 committee, except for a ballot issue committee, shall not
24 receive a monetary or in-kind contribution from an insurance
25 company, savings and loan association, bank, credit union, or
26 corporation.

27 3. An insurance company, savings and loan association,
28 bank, credit union, or corporation may use money, property,
29 labor, or any other thing of value of the entity for the
30 purposes of soliciting its stockholders, administrative
31 officers, and members for contributions to a political
32 committee sponsored by that entity and for financing the
33 administration of a political committee sponsored by that
34 entity. The entity's employees to whom the foregoing authority
35 does not extend may voluntarily contribute to such a political

1 committee but shall not be solicited for contributions. A
2 candidate or committee may solicit, request, and receive money,
3 property, labor, and any other thing of value from a political
4 committee sponsored by an insurance company, savings and loan
5 association, bank, credit union, or corporation as permitted
6 by this subsection.

7 4. The prohibitions in subsections 1 and 2 shall not apply
8 to an insurance company, savings and loan association, bank,
9 credit union, or corporation engaged in any of the following
10 activities:

11 a. Using its funds to encourage registration of voters and
12 participation in the political process or to publicize public
13 issues.

14 b. Using its funds to expressly advocate the passage or
15 defeat of ballot issues.

16 c. Using its funds to place campaign signs as permitted
17 under section 68A.406.

18 d. Using its funds for independent expenditures as provided
19 in section 68A.404.

20 5. The prohibitions in subsections 1 and 2 shall not
21 apply to media organizations when discussing candidacies,
22 nominations, public officers, or public questions. The board
23 shall adopt rules prohibiting the owner, publisher, or editor
24 of a sham newspaper from using the sham newspaper to promote
25 in any way the candidacy of such a person for any public
26 office. As used in this subsection, "sham newspaper" means
27 a newspaper that does not meet the requirements set forth in
28 section 618.3 and "owner" means a person having an ownership
29 interest exceeding ten percent of the equity or profits of the
30 newspaper.

31 6. The prohibitions in subsections 1 and 2 shall not
32 apply to a nonprofit organization communicating with its own
33 members. The board shall adopt rules pursuant to chapter 17A
34 to administer this subsection.

35 7. For purposes of this section "*corporation*" means a

1 for-profit or nonprofit corporation organized pursuant to the
2 laws of this state, the United States, or any other state,
3 territory, or foreign country.

4 Sec. 6. Section 490.120, Code 2009, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 13. The document must contain a statement
7 that the corporation agrees to refrain from any campaign
8 activities prohibited under chapter 68A.

9 Sec. 7. EMERGENCY RULES. The board shall adopt emergency
10 rules under section 17A.4, subsection 3, and section 17A.5,
11 subsection 2, paragraph "b", to implement the provisions of this
12 Act and the rules shall be effective immediately upon filing
13 unless a later date is specified in the rules. Any rules
14 adopted in accordance with this section shall also be published
15 as a notice of intended action as provided in section 17A.4.

16 Sec. 8. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
17 immediate importance, takes effect upon enactment.